Docket No. RSW920030152US1 (7161-117U) **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Customer Number: 46320
David KAMINSKY	:	Confirmation Number: 7696
Application No.: 10/672,030	:	Group Art Unit: 2618
Filed: September 26, 2003	:	Examiner: D. Nguyen
For: COMPUTER PHONE	:	

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted under 37 C.F.R. § 41.41 in response to the EXAMINER'S ANSWER dated November 14, 2007.

The Examiner's response to Appellant's arguments submitted in the Appeal Brief of August 16, 2007, raises additional issues and underscores the factual and legal shortcomings in the Examiner's rejection. In response, Appellant relies upon the arguments presented in the Appeal Brief of August 16, 2007, and the arguments set forth below.

In response to arguments presented on pages 5 and 6 of the Appeal Brief, the Examiner asserted the following on page 8 of the Examiner's Answer:

> In response, the Examiner asserts that **Awater does** teach a laptop computer is used with a wireless phone (see Figs. 1, 6) "for communicating [with] a wireless access point" (see [0011, 0012] regarding a laptop and a wireless LAN and [0003, 004] regarding an access point AP), which clearly suggests a single device to interface via both an IEEE 802.11 radio system (wireless LAN) and a Bluetooth radio system (for voice communication). (emphasis in original)

For ease of reference, paragraphs [0011] and [0012] of Awater is reproduced below:

> The IEEE 802.11 standard is well-established and local area networks are already implemented based on the standard, typically in office environments. As Bluetooth comes into the market, it is likely to be implemented in a domestic environment for communications within the home, for example. Thus someone with a lap-top computer may wish to connect to a IEEE 802.11 wireless local area network in the workplace, and connect to a device, such as a mobile telephone, using a Bluetooth interface outside of the workplace.
>
> A need exists for a means which can enable a single device to interface via both an IEEE 802.11 radio system and a Bluetooth radio system.

Notwithstanding the Examiner's assertion that Awater teaches the use of a laptop computer to connect with a wireless LAN with IEEE 802.11 and to connect to a wireless phone view Bluetooth, the Examiner's analysis has lost track of the claimed invention. As claimed, the computer includes a wireless computer network adapter and a cordless handset circuit. Moreover, the cordless handset circuit establishes and maintains cordless telephony with the cordless phone base station, which is a connected to a telephone outlet. On the contrary, the Bluetooth radio system described by Awater, as disclosed, is directly connected to the mobile telephone and not to a phone base station. Moreover, since Awater describes the phone as mobile (i.e., "a mobile telephone"), Appellant contend that the mobile phone is not "bound to a telephone outlet through a cabled connection," as claimed.

Although the Examiner is relying on other prior art to teach many of the claimed features discussed above, these above-described differences between Awater and the claimed invention

speak to the non-obviousness of the Examiner's proposed combination. In this regard, on pages 6 and 7 of the Appeal Brief, Appellant argued that the Examiner has failed to explain how one having ordinary skill in the art would have arrived at the claimed invention based upon the Examiner's proposed combination. The Examiner's response to these arguments is found on page 9 of the Examiner's Answer and reproduced below:

> In response, the Examiner asserts that the handheld computer phone 300 in **Flint** does share common computing resources (see **Fig. 4** regarding processor 2) and so does the communication device in **Awater's** reference (see CPU 622 in **Fig. 6**). (emphasis in original)

At the outset, Appellant notes that the Examiner's response does not clearly address the arguments presented by Appellant on pages 6 and 7 the Appeal Brief. Specifically, Appellant is still unclear as to the Examiner's alleged common sense rationale that would have impelled one having ordinary skill in the art to combine the applied prior art so as to arrive at the claimed invention.

Referring to the teachings of Awater, the described computer is capable of connecting to both a mobile telephone and also to a wireless network providing both a Bluetooth radio system and an IEEE 802.11 radio system in a single device. Moreover, as inferred in paragraphs [0008], [0051] of Awater, the aforementioned cellular/mobile telephone can directly connect to a telephone network without any cords, as is well known in the art. Given the teachings of Awater, Appellant respectfully submits that one having ordinary skill in the art viewing the teachings of the Admitted Prior Art, Flint, and Awater would not modify Flint in view of Awater and the Admitted Prior Art, as suggested by the Examiner.

Instead, based upon the teachings of Awater, the obvious modification to Flint would be to simply replace the cordless phone connected to a PSTN system, as taught by Flint, with the mobile/cellular phone of Awater. Put differently, the Examiner has not provided a reasonable explanation as to why one having ordinary skill in the art would keep a cordless phone connected (via a cord) to a PSTN, as taught by Flint, and not replace the cordless phone with a cellular/mobile phone, as taught by Awater. The Bluetooth connection between the mobile phone and the laptop is possible wherever the laptop and mobile phone are in close proximity, which can be at most locations since both the laptop and the mobile phone are mobile. However, a cordless phone connected to a base station, which itself is connected by wire to a PSTN system, as taught by Flint, is much less mobile. Thus, if one were to modify Flint in view of Atwater and were to consider the teachings of the applied prior art, as a whole, it would have been obvious to replace the cordless phone connected to a PSTN system, as taught by Flint, with the mobile/cellular phone of Awater.

Moreover, Appellant submits that one having ordinary skill in the art would have ignored the teachings of the Admitted Prior Art and Flint and simply followed the sole the teachings Awater, which provide: (i) a computer having the capability of connecting to a wireless network, (ii) a cordless telephone having the capability of connecting to the wireless network (via the computer) and also to a phone network via a cellular network; and (iii) the computer and the cordless phone being capable of communicating with one another. The Examiner has identified no additional benefits resulting from the proposed combination beyond those benefits already provided by the system of Awater alone. As such, Appellant submits that the Examiner

has failed to alleged a common sense rationale that would have realistically impelled one having ordinary skill in the art to combine the applied prior art in the manner claimed.

On pages 7 and 8 of the Appeal Brief, Appellant argued that the Examiner unreasonably stretched the ordinary and customary meaning of the phrase "wireless computer network," so as to assert that Flint discloses a wireless computer network. The Examiner's response to these arguments is found on page 10 of the Examiner's Answer and reproduced below:

> In response, the Examiner asserts that the wireless modem 209 is a wireless computer network adapter (see **Flint**, col. 5, line 60 - col. 6, line 8, particularly **to col. 6, lines 4-6**), which clearly suggests digital data stream transmission for a PC. Further, **Flint** in view of **Awater**, as modified for providing the handheld computer phone the capability of access to a wireless LAN while at work, would clearly teach the claimed wireless computer network adapter and an access point (see Awater, [0011] and [0003]). (emphasis in original)

Again, the Examiner's "response" fails to address the arguments in the Appeal Brief that this "response" purports to address. As further evidence of the Examiner improperly expanding the teachings of Flint when in the statement of the rejection on page 3 of the Examiner's Answer, the Examiner newly stated the following:

> at least one computer participating in a wireless computer network (see Figs. 4-6 regarding the handheld computer **300** and computer **304**);
> ...
> a wireless computer network adapter (Wireless Modem **209**) and a cordless handset circuit (Audio SP **42**) both disposed in said at least one computer (handheld computer **300**) (bold in original)

As evident from these passages, the Examiner is now clearly asserting that feature 300 of Flint is a handheld computer to, presumably, assert that a wireless computer network adapter, corresponding to that claimed, connects feature 300 to computer 304. However, as previously

argued, feature 300 is not a handheld computer. Instead feature 300 is a handset of a cordless telephone (see, e.g., column 4, lines 35-36 of Flint).

As discussed in M.P.E.P. § 2111 regarding claim interpretation, "[t]he broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999)." The Examiner has produced no evidence that one having ordinary skill in the art (e.g., a computer/network engineer) would consider the cordless handset 300 of Flint to be a computer so as to arrive at the conclusion that the wireless modem 209 of Flint is comparable to a typical wireless computer network adapter, as claimed. On the contrary, common sense would lead to the conclusion that one having ordinary skill in the art would recognize that the inclusion of a microprocessor and wireless connection alone in a device does not make the device a computing device coupled to a wireless computer network via a wireless access point, as claimed. Many devices include microprocessor with wireless connections yet are not considered by having ordinary skill in the art as "computing devices" (e.g., automobiles, self-setting clock radios).

For the reasons set forth in the Appeal Brief of August 16, 2007, and for those set forth herein, Appellant respectfully solicits the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. § 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: January 14, 2008

Respectfully submitted,

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